

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : **McKirchy**, Karen A.
SERIAL NO : 10/075,730
FILED : February 14, 2002
TITLE : METHOD AND APPARATUS FOR PROVIDING INSTRUCTIONAL
HELP AT MULTIPLE LEVELS OF SOPHISTICATION IN A
LEARNING APPLICATION

Grp./A.U. : 2173
Examiner : Vu, Kieu D.
Conf. No. : 2691
Docket No. : P02293US02

**SUPPLEMENTAL DECLARATION OF PRIOR INVENTION IN THE UNITED
STATES OR IN A NAFTA OR WTO MEMBER COUNTRY TO OVERCOME
CITED PATENT OR PUBLICATION**

(37 CFR 1.131)

AND TO PRESENT EVIDENCE OF SECONDARY INDICIA OF NON-OBVIOUSNESS

(37 CFR 1.132)

I, Karen A. McKirchy, declare:

A. PURPOSE OF DECLARATION

1. This is presented to supplement my earlier Declaration of record in this application (the McKirchy Declaration executed July 13, 2005).
2. Enclosed at Exhibit D is a copy of the deposit accompanying U.S. Copyright Registration TX-4-428-886, which related to CD-ROM multi-media programming licensed to the United States Government. This submission is made solely to allow the Examiner to view the content of the software. It is copyrighted and there is no permission to use the software in any other manner than to view its content for purposes of establishing reduction to practice for this application.

3. Note that throughout, there are examples of "plain" language description of material to be learned by a Government employee, juxtaposed next to sophisticated ("enhance") language covering the same subject matter to be learned.
4. These two differing levels of sophistication of language are the "huh?" and "tell me more" levels that were mapped out in my high level flow chart incorporated in a data input file made of record in my July 13, 2005 declaration. A copy of that flow chart is attached at Exhibit B to my July 13, 2005 Declaration.
5. You will also see that this format is repeated over and over for the different material to be learned. The software specifically uses the words "huh?" and "tell me more", which would be displayed as options to the user when the program is operated. They are, therefore, user-selectable at any time within a section.
6. Furthermore, the levels of sophistication sometimes vary from section to section in this example and the program, both in number and type.
7. The programming in the CD can be implemented on a computerized system or other electronic device such as via telephone, TV, or the like, as explained in my application.
8. Furthermore, the flow chart of Exhibit B of my July 13, 2005 Declaration was created at least as early as January 11 or 12, 1995 and was shown to decision makers in the Government. As a result, I was hired to create software that followed that instructional/computational strategy.

9. As a result of my prototype software following the instructional/computational strategy, I was awarded numerous contracts and licenses with the U.S.

Government for its use namely:

- i. GSA GOVERNMENT-WIDE PURCHASE CARD INTERACTIVE CUSTOMER ASSISTANCE;
- ii. DAU ACQUISITION REFORM, A SMART TO LEARN
- iii. HHS ACQUISITION FOR PROJECT OFFICER IN YOU'RE YOUR MIND WITH ELECTRONIC LEARNING;
- iv. HHS PERSONAL PROPERTY MANAGEMENT;
- v. NAVY PURCHASE CARD TRAINING AND INTERACTIVE CUSTOMER ASSISTANCE.

As stated in my prior declaration of July 13, 2005, usage has occurred and continues to occur under the license to tens of thousands of Government employees.

10. The Examiner in the Office Action of October 5, 2005 has cited Hatakama, U.S. Patent No. 5,774,118 having an effective date of August 22, 1995, which is later than my conception of my invention claimed in the above-identified application.
11. A model of the multiple levels of sophistication learning method was created at least as early as the first few days of 1995 and was presented in tangible form in January of 1995, both earlier than August 22, 1995. Of record in this application is a copy of the actual tangible expression of the learning model that is also Figure 2 of my present patent application. As set forth in my June 12, 1998 Declaration filed with the Information Disclosure Statement of the same date and of record in

this case, facts are presented which confirm that conception had occurred in early 1995 and developmental versions were created through that year.

12. Attached to this Declaration is the following evidence:
 - i. EXHIBIT E—photocopy of actual DEMO CD ROM which includes early version of an embodiment of the invention.
 - ii. EXHIBITS F-K—copies of screen displays from the CD ROM of EXHIBIT E.
13. Exhibit E is a demo CD that was created at least as early as March 7, 1995. This CD is an early version of an interactive instructional program which utilizes Applicant's invention.
14. Exhibit F is from the CD ROM of Exhibit E. Under the "Application" heading is found the compiled executable file with the file name "PCARD." Note the date of March 3, 1995. The other files are Asymetrix Toolbook files dated 7/11/1994 needed to run the program. Under the Application Extension Heading are Asymetrix Toolbook files dated 7/11/1994 needed to run the program. Under File Folder are two folders Custom and WinVideo holding additional program files and Asymetrix Toolbook files. Note the folders have a creation date of 3/6/1995. The files in Custom are dated 2/27/1995 or before. The files in WinVideo are dated 10/9/1994 or before.
15. Exhibit G is from the CD ROM of Exhibit E. Under the "Text Document" heading above, note the file dates of March 4, 1995. These text files contain the text in Applicant's levels of sophistication – Huh? And Tell me more. The file list under "Text Document" continues through a file called XPR Date. Additional

headings on this CD include "Video Clip", "Wave Sound" and "Write Document". The "Video Clip" heading contains a file list with video files. The "Video Clip" file list begins with ANSQUES and ends with YWANTRBL. All files are dated 3/6/1995 or before 3/6/1995. The "Wave Sound" heading contains a file list with audio files. The "Wave Sound" file list begins with 000 and ends with P021. It contains files with the pre-fix P and E. P signified "Huh" and E signified "Tell me more." These files provide audio narration for the levels of sophistication in Applicant's invention – Huh and Tell me more. All files are dated 3/6/1994 or before 3/6/1995. The "Write Document" heading contains two files. One file is called Guide. It is dated 3/3/1995 but contains a footer which indicates that this file was compiled by McKirchy and Co. 1/26/1995.

16. Exhibit H is from the CD ROM of Exhibit E. When the program is launched by clicking on the compiled executable file with the file name "PCARD" dated March 3, 1995, the screen above appears.
17. Exhibit I is from the CD ROM of Exhibit E. After clicking on the Learn About It button, the user is able to access the topics of instruction. Here is one example of a topic of instruction contained on this CD showing Applicant's invention – Huh? And Tell me more.
18. Exhibit J is from the CD ROM of Exhibit E. When Huh? is clicked the text on the left side of the screen in the image above is presented.
19. Exhibit K is from the CD ROM of Exhibit E. When Tell me more is clicked, the text on the left side of the screen in the image above is presented.

20. Exhibits E-K therefore corroborate conception of the concept of two levels of sophistication in an instructional program, which matches up with the instructional model of January 1995 discussed above.
- The documents of the preceding paragraph were in being prior to August 22, 1995.
21. Work continues on creating prototypes and different versions utilizing the invention for use by the government from the early part of 1995 continuously thereafter and continues today.
22. One of the actual reductions to practice of the invention is embodied in the enclosed U.S. Copyright Registration TX-4,428-886 CD ROM, of record, and which was published at least as early as October 26, 1995, thus establishing diligence from the time of conception to a time just prior to the date of the reference and then diligently towards actual reduction to practice.

B. DECLARATION

23. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE

24.

Inventor

Full name of first inventor Karen A. McKinchy

Inventor's Signature

Date

Karen A. McKinchy
08/07/2006

Enclosures to Declaration:

Exhibit D - Deposit from TX-4-428-886

Exhibits E-K - 1995 CD ROM and screen displays